

GOVERNMENT OF THE DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT



Application No. 13434, of Georgetown University, pursuant to Paragraph 8207.11 of the Zoning Regulations, for a variance from the restrictions on a restaurant which is a commercial adjunct to a hotel (Paragraph 3105.52) to permit the conversion of two windows into doors and to erect a canopy and a fence wall for the restaurant use in an R-5-C District at the premises 3700 Massachusetts Avenues, N.W., (Square 1929, Lot 12).

HEARING DATE: March 4, 1981
DECISION DATE: April 1, 1981

FINDINGS OF FACT:

1. The subject site is located on the southwest corner of the intersection of Wisconsin and Massachusetts Avenues, N.W. It is in an R-5-C zone District at premises known as 3700 Massachusetts Avenue, N.W.

2. The site is developed with a large hotel/apartment house called the Saint Albans. The subject restaurant is located on the ground floor of this building.

3. The applicant is requesting permission to make two windows into doors for access to a court yard for use as an outside dining area accessory to the existing LaFleur restaurant in the Saint Albans hotel/apartment building.

4. As the court yard presently exists, it is inaccessible except through the two windows which the applicant proposes to convert. The courtyard therefore serves no useful purpose.

5. The court is approximately twenty-five feet by forty-two feet in dimension. The applicant proposes to pave the courtyard with brick in a basket weave pattern, with the perimeter areas landscaped with flower beds and a fountain. There will be a two foot high brick wall and rail fence across the eastern edge of the court which fronts on Wisconsin Avenue. Beyond this line is a landscaped area approximately ten feet in width between the sidewalk and the proposed wall. This ten feet, coupled with a grade elevation difference of approximately five feet, serves to screen the courtyard setting from the sidewalk and street.

6. The applicant proposes further, to cover the courtyard dining area with a canvas canopy, subdued in color, at the first story level. There are no residential units that derive light and ventilation from windows on the ground level which front on the court.

7. The applicant testified that there will be no sign or display on the canopy, or in the court yard area, to advertise the use. There will be no direct entrance to or exit from the court yard for restaurant patrons. The sole access to the court yard will be through the existing restaurant entrance. This condition is directly associated with the fact that the court yard opening to the street is walled as previously mentioned.

8. The applicant proposes the use of gas lighting for a subdued atmosphere, supplemented by table candlelights, so as not to be objectionable to other uses in the building or on adjacent properties.

9. There are currently forty-five on site parking spaces available for patrons of the restaurant which are accessible from Massachustees Avenue. The applicant does not proposes to decrease the number of spaces.

10. The applicant does not propose to alter the character of the existing restaurant, nor increase the existing seating capacity. The proposed change is simply an added amenity to allow patrons the opportunity to dine outside during suitable weather. There is an existing piano on one end of the dining room. The applicant does not propose to have music out on the court area.

11. The Office of Planning and Development, by memorandum dated February 13, 1981, recommended approval of the application on the grounds that the applicant is faced with a peculiar situation in that there is no means of access to the courtyard other than through windows and as a practical matter, the use of the courtyard for outdoor covered seating would require some means of access from the restaurant located within the building. Without such access, the courtyard area would not be servicable. The OPD noted that while the establishment is visible from the street, the courtyard's screening, its distance from the sidewalk, the canopy's subdued color which blends harmoniously with the building, and its design, which does not extend beyond the building wall, reflects the character of the building, and will not cause substantial detriment to the public good. The Board so finds.

12. The Advisory Neighborhood Commission - 3C, by letter dated February 11, 1981, and supplemented by letter dated March 20, 1981, reported it did not oppose the granting of the requested variance provided the variance if granted (1) prohibited access to the courtyard area from the street, (2) assured that adequate on-site parking would be available, (3) did not permit an expansion or change in the character of the use and (4) required that the courtyard and canopy be subdued in aesthetic character, without advertising signs and lighted in such a way that the light did not go beyond the perimeter of the courtyard or create a glow through the canopy material. The ANC further noted its concern that the Board determine whether the application was for use or area variances. The ANC was also concerned that the Board's action on this application not set a precedent for future cases involving expansion of hotels or their commercial adjuncts, in residential districts.

13. The Board is required by statute to give "great weight" to the issues and concerns of the ANC. The Board finds all of the above concerns raised by the ANC to be valid issues and notes that the ANC's recommendation will be addressed by the Board in conditions to be imposed in the granting of the application. As to the type of variances involved, the Board would will address that issue in its conclusions of law. As to the precedent issue the Board has consistently stated that each case must be decided on the basis of the record developed in that case and the facts before the Board in each particular instance.

14. There was no opposition to the granting of this application.

CONCLUSIONS OF LAW AND OPINION:

Based on the above findings of fact and the evidence of record, the Board concludes that the applicant is requesting a variance relief from portions of Paragraph 3105.52, which states that in the R-5-C District a hotel containing 100 or more rooms or suites can have a restaurant as an adjunct use provided that:

1. There is no direct entrance thereto from the outside of the building.

2. No part of such adjunct or the entrance thereto is visible from a sidewalk; and,

3. No sign or display indicating the existence of such adjunct is visible from the outside of the building.

The Board concludes that the use of a restaurant as an adjunct is a permitted use. The requested variance is therefore an area variance. What is at issue is the physical layout of the building and accessibility to the court area. The variances requested as related to the components of the building are area variances rather than use variances. The Board believes that to deny the applicant use of the open area, would be contrary to the intent and spirit of the Zoning Regulations. Under Paragraph 8207.11 of the Zoning Regulations, the granting of an area variance is warranted only if the facts of a particular case show that strict application of the Zoning Regulations would result in peculiar and exceptional practical difficulties to the owner of the property and provided such relief can be granted without substantially impairing the intent, purpose, and integrity of the zone plan.

The Board concludes that while the proposed use is slightly visible from the street, the screening of the area with a brick wall and wrought iron railing, as well as the proposed shrubbery and the ten foot set back from the sidewalk, serves to adequately screen the area from pedestrians, and surrounding properties.

The Board further concludes that, given the inaccessibility to the courtyard, except through the existing windows, the area is rendered completely unserviceable. The changes proposed by the applicant will not expand the existing capacity of the restaurant. The court yard's distance from the sidewalk and the canopy's subdued color which blends harmoniously with the building, and its design, reflects the character of the building.

The proposed use will not cause detriment to the public good, nor impair the intent, purpose and integrity of the Zoning Regulations

The Board concludes that it has accorded to the Advisory Neighborhood Commission the "great weight" to which it is entitled. Accordingly, it is ORDERED that the application is hereby GRANTED SUBJECT to the following CONDITIONS:

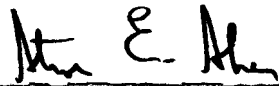
1. The courtyard canopy cover will not be of a permanent construction, and that the court yard dining be limited for use in clement weather ONLY.
2. The current seating occupancy of the restaurant shall not be increased.
3. No signs or display advertising the use shall be installed on the canopy or in the court area frontage on Wisconsin Avenue.

4. The lighting of the court yard shall be directed to underneath the canopy. Such lighting shall be subdued.
5. The canopy color shall be harmonious with the brick color of the St. Albans building.
6. No music shall emanate from the court yard.
7. The fence and wall separating the restaurant area from the public sidewalk be of a permanent nature without any openings to connect the sidewalk and the court area.

VOTE: 3-1 (William F. McIntosh, and Connie Fortune to GRANT; Douglas J. Patton to GRANT by PROXY; Walter B. Lewis OPPOSED; Charles R. Norris not voting, not having heard the case).

BY ORDER OF THE D.C. BOARD OF ZONING ADJUSTMENT

ATTESTED BY:



STEVEN E. SHER
Executive Director

FINAL DATE OF ORDER: 7 MAY 1981

UNDER SUB-SECTION 8204.3 OF THE ZONING REGULATIONS "NO DECISION OR ORDER OF THE BOARD SHALL TAKE EFFECT UNTIL TEN DAYS AFTER HAVING BECOME FINAL PURSUANT TO THE SUPPLEMENTAL RULES OF PRACTICE AND PROCEDURE BEFORE THE BOARD OF ZONING ADJUSTMENT."

THIS ORDER OF THE BOARD IS VALID FOR A PERIOD OF SIX MONTHS AFTER THE EFFECTIVE DATE OF THIS ORDER, UNLESS WITHIN SUCH PERIOD AN APPLICATION FOR A BUILDING PERMIT OR CERTIFICATE OF OCCUPANCY IS FILED WITH THE DEPARTMENT OF LICENSES, INVESTIGATIONS, AND INSPECTIONS.